

Remarks

Claims 1-3, 6-8 and 10 are pending in the application. Reconsideration and allowance of the application are respectfully requested.

The final Office Action dated October 11, 2007 lists the following rejection: claims 1-3, 6-8 and 10 stand rejected under 35 U.S.C. 102(b) over Tarvas *et al.* (EP 1304765). The office action also notes an objection to the abstract and a request to add section headings.

Applicant respectfully traverses the Section 102(b) rejection of claims 1-3, 6-8 and 10 because the cited portions of the Tarvas reference do not correspond to the claimed invention which includes, for example, aspects directed to the width of the patch conductor between the first and the second slots being selected to give an impedance that is less than a system impedance. The cited portions of the Tarvas reference do not make any mention of the width of planer element 220 between the first slot 231 and the second slot 232, let alone that this width is selected based upon certain parameters as in the claimed invention. *See, e.g.*, Figure 2a and Paragraphs 0011-0013. For example, Tarvas merely discusses that antenna matching in the lower band can be optimized by shaping the second slot but does not disclose anything about selecting a width between slots as in the claimed invention.

Applicant previously presented this argument in the Response dated July 16, 2007 to which the Examiner responded by stating "This argument is not deemed to be persuasive because if the prior art structure can perform the same function then it read on the claims." *See* page 5:15-17 of the instant Office Action. However, Applicant fails to see how the Examiner's statement has any relevance to the width of the patch conductor between the first and the second slots being selected based upon certain parameters. Applicant submits that there is no function being performed by a structure. In contrast, the claim limitations require that the width of the patch conductor between the first and the second slots be a certain distance. To the extent that the Examiner's reply amounts to an inherency argument, according to M.P.E.P. § 2112(IV) "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." In this instance, the cited portions of

the Tarvas reference do not make any mention of the width of planer element 220 between the first slot 231 and the second slot 232. Thus, the Examiner fails to provide any basis in fact and/or technical reasoning to reasonably support that the width is selected based upon certain parameters as in the claimed invention.

In view of the above, the cited portions of the Tarvas reference do not correspond to the claimed invention. Accordingly, the Section 102(b) rejection of claims 1-3, 6-8 and 10 is improper and Applicant requests that it be withdrawn. Applicant further submits that the Section 102(b) rejection of claims 1-3, 6-8 and 10 is improper because the Tarvas reference does not qualify as prior art under Section 102(b).

Regarding the objection to the Abstract, Applicant has provided an amended copy of the Abstract on page 2 of this paper on a separate sheet of paper as requested. Thus, Applicant requests that the objection to the Abstract be removed.

Regarding the request to add section headings, Applicant respectfully declines to add section headings to the specification because the indicated suggestions in 37 C.F.R. § 1.77(b) are not statutorily required for filing a non-provisional patent application under 35 USC § 111(a), but per 37 C.F.R. § 1.51(d) are only guidelines that are suggested for Applicant's use. They are not mandatory, and when Rule 77 was amended in 1996 (61 FR 42790, Aug. 19, 1996), Bruce A. Lehman, Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, stated in the Official Gazette:

"Section 1.77 is permissive rather than mandatory. ... 1.77 merely expresses the Office's preference for the arrangement of the application elements. The Office may advise an applicant that the application does not comply with the format set forth in 1.77, and suggest this format for the applicant's consideration; however, the Office will not require any application to comply with the format set forth in 1.77."

In view of the above, Applicant prefers not to add section headings.

Applicant notes that a minor amendment has been made to claims 1, 6 and 10 to correct a typographical error (*i.e.*, replacing "then" with "than"). Applicant respectfully requests that this amendment be entered as it requires only a cursory review by the Examiner. *See* M.P.E.P. § 714.13(I).

In view of the remarks above, Applicant believes that each of the rejections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, David Cordeiro, of NXP Corporation at (408) 474-9061 (or the undersigned).

Please direct all correspondence to:

Corporate Patent Counsel
NXP Intellectual Property & Standards
1109 McKay Drive; Mail Stop SJ41
San Jose, CA 95131

CUSTOMER NO. 65913

By: 

Name: Robert J. Crawford

Reg. No.: 32,122

651-686-6633

(NXPS.357PA)